

## COUNTY OF FAIRFAX, VIRGINIA

### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

JEAN-PHILLIPPE KRUKOWICZ AND BENEDICTE A. KRUKOWICZ, VC 2010-MA-003 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit greater than 25 percent front yard coverage. Located at 6532 Spring Valley Dr. on approx. 27,961 sq. ft. of land zoned R-2. Mason District. Tax Map 71-4 ((7)) 68. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 28, 2010; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the property.
2. This is a difficult situation.
3. To a limited extent, the property does meet the criteria for a variance applicable now.
4. There is a topographic condition, in that there is a difficult slope and site distance problem from the driveway or entrance of this property into the street.
5. Vehicular access is complicated such that it is very difficult to back out up the hill with the blind spots in this configuration.
6. The Standards in 18-404 have been satisfied in that the property was acquired in good faith and, in fact, the driveway was in this configuration when the applicants acquired it.
7. The Board is not dealing with an error in building location, however, and the standards are a little different.
8. The Board found that subsections 2E and 2F were both satisfied, particularly the slope of the front yard between the house and the street, and the connection between the driveway and the street or the conditions facing the street for vehicular access.
9. Subsection 3 has been satisfied.
10. Subsection 4 has been satisfied to the extent that the entire driveway would have to be reduced to 25% given the applicants' acquisition of the property in this condition, and would be an undue hardship.
11. Subsection 5 has been satisfied.
12. Subsection 6A and 6B have been satisfied.
13. To the extent that on a property like this, in this configuration, if you had to get rid of the circular driveway, unless there was a different turnaround problem, you are restricting vehicular access in and out to a dangerous condition with people having to back up the hill at a blind spot.
14. There is a hardship with this property. The applicants bought the house like this, with the circular driveway. If they had to get rid of the circular driveway, it would make it very difficult to get in and out. The Board did not think this was a convenience sought by them.
15. This would not have any affect on adjacent properties or the character of the zoning district.
16. The variance is in harmony with the intended spirit and purposes of the Ordinance.
17. The Board could not remember the last time a variance about a driveway had been before them, but given this unique situation and these conditions, those applicable standards have been met.

18. The house does not need the stubbed portion of the driveway for the purpose of ingress and egress which is really the primary impetus for the variance. Even though it may have been like that, it is contributing to the appearance that the front yard is excessively paved, which is what the Board assumes drove the complaint in the first place.
19. The function of that portion of the driveway would actually be a convenience under Subsection B, rather than Subsection A.
20. The hardship the applicants have is that they cannot back out, not that they do not have an extra parking space on the driveway.
21. This is, in fact, a fairly long driveway and several cars could easily be parked in it without creating a significant problem.
22. In order to meet the standards, the Board could not conclude that the parking space stub would be within the scope of Section 18-404, Subsection 6.
23. Historically, even if someone had looked at these plats, it was not clear, certainly not in the 2003 plat, which arguably contributes to the confusion, the plat with Mr. Shoup's signature does not have the parking space on it, but it does have a circular driveway, even if that was the way it was built.
24. Although it might be possible to narrow the driveway in some way, it would be more trouble than it is worth and at this point would not be appropriate.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for the maximum size of the driveway in the front yard as qualified by Condition 3 and as shown on the plat prepared by Joseph W. Bronder, Land Surveyor, DiGiulian Associates, P.C., dated April 29, 2010 and signed May 3, 2010, as submitted with this application and is not transferable to other land.
2. Within 120 days of approval of this variance, the 10.5 foot high shed shall be removed, moved or reduced in height to meet the requirements as outlined in Sect. 10-104 of the Zoning Ordinance.
3. Notwithstanding what is depicted on the plat, the parking space stub to the north of the driveway shall be removed and the area re-vegetated within 180 days of approval of this variance.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Mr. Smith seconded the motion, which carried by a vote of 5-2. Mr. Byers and Mr. Hammack voted against the motion.